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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,525	10/12/2001	Pranitha Senarath	HRT-57089	3977

24201 7590 05/08/2003

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EXAMINER

MANTIS MERCADER, ELENI M

ART UNIT	PAPER NUMBER
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3737

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/977,525

Applicant(s)

SENARITH ET AL.

Examiner

Eleni Mantis Mercader

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Manwaring et al.'299.

Manwaring et al.'299 teach all the features of the instant invention including a system for tracking the location of an interventional device within an anatomical site, said system comprising:

a magnetometer system adapted to provide present-position coordinate data related to the present position of the device and future present-position coordinate data related to future positions of the device as the device is moved about the anatomical site (col. 5, lines 44-64; describing the tracking of the magnetometer as the way to determine the location of the surgical probe and col. 3, lines 19-67 & col. 4, lines 1-22; referring to the current location of the surgical probe and the future target location along with guiding the surgical probe by using the guided trajectory and col. 4, lines 24-67 and subsequent; describing embodiments of positioning a magnet about the anatomical site);

a processor communicating with a database having stored therein the coordinate data of a plurality of past positions of the device, the processor adapted to receive present-position coordinate data, process the present-position coordinate data and output repeat-position

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indication data when present-position coordinate data is substantially the same as one of the past-position coordinate data (col. 3, lines 31-57 and col. 4, lines 1-22; referring to the controller 18 which determines the current position of the surgical probe and memory 20 storing previously acquired tomograms and also see col. 9, lines 35-43; describing use of tomograms to guide the surgical probe by identifying its current location (please note that broad interpretation of the claim language does not exclude the scenario where past-position is repeat-position and is present-position coordinate data as is done with real-time localization));

and a sensory indicator adapted to receive the repeat-position indication data from the processor and process the data to provide a sensory indication (col. 3, lines 58-67 and col. 4, lines 1-3; referring to the feedback device indicating the current position of the surgical probe as it relates to the target and the respective trajectory).

Manwaring et al.'299 teach the use of cartesian coordinates (col. 9, lines 35-43) and/or polar coordinates (col. 9, lines 57-67 and col. 10, lines 1-7; describing angular determinations of the surgical probe).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

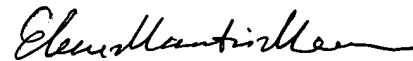
Strommer et al.'375 teach a method and apparatus for real time quantitative three-dimensional image reconstruction of a moving organ and intra-body navigation.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni Mantis Mercader whose telephone number is 703 308-0899. The examiner can normally be reached on Mon. - Fri., 8:00 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef can be reached on 703 308-3256. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-3590 for regular communications and 703 308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0858.



Eleni Mantis Mercader  
Examiner  
Art Unit 3737

EMM  
May 4, 2003